



United States Department of Agriculture,
OFFICE OF THE SECRETARY.

**PROTEST AGAINST PROPOSED LEGISLATION RESTRICTING THE
EXPERIMENTS OF THE DEPARTMENT OF AGRICULTURE.***

WASHINGTON, D. C., May 25, 1897.

HON. REDFIELD PROCTOR,

Chairman Committee on Agriculture and Forestry,

United States Senate.

DEAR SENATOR: Permit me to invite your attention to Senate bill 1063, entitled "A bill for the further prevention of cruelty to animals in the District of Columbia,"† and to the injurious effect which this bill is likely to have upon the scientific investigations of the Department of Agriculture, and of the State agricultural experiment stations. The investigation of the diseases of animals, their causes, nature, prevention and treatment, is an extremely important work in the interests of agriculture, and one which should be fostered and encouraged. Such investigations, also, have a most valuable influence in many cases in advancing the knowledge of human diseases, but, as they are primarily intended to benefit our farmers by diminishing the losses of live stock, I will not dwell upon their effect upon human medicine.

Congress has for many years made provision for the investigation of the diseases of animals by this Department; large sums of money have been appropriated for this purpose; an experimental station and a laboratory have been equipped and maintained; valuable and expensive apparatus has been accumulated; expert investigators have been employed, and a vast amount of valuable knowledge has been acquired. This work is not conducted for the benefit of the District of Columbia any more than for other parts of the country; indeed, the stock interests of the District being insignificant, I might say that these investigations are made for the farmers of the country at large, and that the District of Columbia should neither be allowed to control nor interfere with them.

The bill mentioned, under the guise of a local measure, undertakes to regulate these investigations, to state how they shall be performed, to prohibit certain kinds of experiments, to make experiments that do not come under the provisions of the bill an offense punishable by heavy fine and imprisonment, without regard to the necessity for the experiments or whether there is any cruelty in performing them. It also provides that the Commissioners of the District may

* Copy of a letter addressed by the Secretary of Agriculture to Hon. Redfield Proctor, United States Senate, relative to the provisions of Senate bill 1063.

† As favorably reported to the Senate May 13, 1897, by the Committee on the District of Columbia. This bill is similar in terms to Senate bill 1552, of the Fifty-fourth Congress, first session.

direct any person performing such experiments from time to time to make reports to them of the methods employed and the results of such experiments, in such form and with such details as the said Commissioners may require. In effect, then, the bill would take this important and necessary scientific work, which has been committed to the Department of Agriculture, and which is maintained for the relief of the great agricultural and live stock interests of the country, out of the hands of the Secretary of Agriculture, at least to a considerable extent, and place it, to that extent, under the direction and control of the officials of the District of Columbia.

No one representing the agricultural interests of the country has urged the desirability of this measure or had an opportunity to assist in perfecting it. The anti-vivisection committee of the Washington Humane Society claims the authorship of the bill, and it is freely asserted that its passage is desired as much for its influence as a precedent for State legislation as for its direct effect in the District. It, therefore, threatens the work of the State agricultural experiment stations almost in the same manner as it does the work of this Department. A bill having such far-reaching effects upon the greatest industries of the country should not be treated as a strictly local measure, and should be much more carefully considered than this one has been before it is enacted into law. Such a bill, if deemed necessary at all, should be drafted by persons in sympathy with scientific investigations, and should interfere with such investigations as little as possible consistent with the accomplishment of its object, viz, the prevention of cruelty. This bill, S. 1063, is the British anti-vivisection act, slightly modified to make it applicable to our institutions, and with important safeguards of that measure omitted. The original act may have been required in Great Britain, and may have been suitable to the conditions existing there. In the United States, however, the conditions are different; the law for the prevention of cruelty to animals in the District of Columbia is very rigorous, and is not limited to domesticated animals, as was formerly the case with the law for the prevention of cruelty to animals in Great Britain. There is consequently not the same reason for special legislation concerning scientific experiments here, and much less for a more drastic measure.

Briefly, the objections which I would urge to the passage of this bill are as follows:

I. It has not been shown that there have been any cruel experiments performed in the District of Columbia, or that any such experiments are now in progress, or that there are likely to be any experiments of this character in the near future.

The only allegation of such cruelties having been perpetrated was contained in a letter from Dr. A. L. Rautenberg in reference to mutilations of a dumb animal which he had seen in the Army Medical Museum. His statement is indefinite and does not specify the time, the species of animal operated upon, or the person perpetrating the cruel act.

The records show that Dr. Rautenberg was at one time employed in the Army Medical Museum in a clerical capacity, and that he has not been connected with that institution for twenty-three years. Responsible medical officers connected with the museum testify that there have been no painful experiments performed there since 1870, nor, so far as they are informed, previous to that time. Need I say, it would not be wise to pass legislation which may retard science and interrupt the investigations now in progress and necessary for the control of diseases costing our farmers many millions of dollars annually, upon this inconclusive evidence as to something which is alleged to have occurred in the Army Medical Museum a quarter of a century ago? If it is considered necessary to

take any legislative action upon such a statement, this should certainly be preceded by a rigid public investigation to determine: (1) The truth of the allegation; (2) whether the animal was mutilated with the purpose of conducting an experiment; (3) whether the mutilation constituted cruelty; (4) whether any attempt was made to convict the party making the experiment of cruelty, and if such attempt to convict failed, what were the reasons for the failure; (5) whether in case the experiment involved cruelty and were repeated at this time the guilty party could not be convicted and punished under existing statutes.

In considering the advisability of legislation and the character of the legislation required there should be a sharp distinction drawn between: (1) Malicious cruelty; (2) vivisections for demonstrations in the common schools before immature pupils; (3) demonstrations in the medical schools or universities necessary for the instruction of students of medicine or biology; (4) original investigations for the advancement of biological or medical science. These different acts are referred to by the advocates of this legislation without much effort to discriminate between them, but it must be evident to any one who will give the matter some thought that it is not necessary to restrict or prohibit demonstrations for the instruction of advanced scientific students, or experiments for the discovery of new facts in science, in order to prevent malicious cruelty or demonstrations in the primary schools.

II. This bill, if enacted into law, would absolutely prohibit important and necessary lines of experiments, and would greatly restrict some others which were not prohibited.

This statement can be confidently made from a reading of the bill, but the full extent of the injury which it would do could only be determined by experience, since all kinds of experiments which may become necessary cannot be foreseen. The bill establishes certain restrictions in accordance with which experiments must be performed, and if any experiment is made which is in contravention to these provisions, or any of them, the investigator is "guilty of an offense against this act" and liable to a penalty of \$150, if a first offense, or if a second offense the penalty may be \$300, or six months' imprisonment.

Senator Gallinger's report (S. No. 116) accompanying this bill refers to the memorials and resolutions of prominent scientific bodies protesting against its passage, as erroneous and misleading in asserting that the bill is intended to restrict and prohibit experiments upon living animals. There appears to be a difference of opinion as to the effect which the bill is intended to have, but an examination of its several sections shows conclusively that those who favor it need to make themselves familiar with its provisions not less than those who oppose it. For instance, the report says:

"It is proper also to say that the greater part of these adverse statements concern bacteriology only, which is expressly excluded from the operation of the bill, and therefore beside the question." I fail to find any such exclusion of bacteriology in the bill as reported from the committee. The only exception to which this statement could possibly refer is found in section 2, paragraph (c), where it is provided that in "so-called inoculation experiments or tests of drugs or medicines the animal need not be anaesthetized nor killed afterwards, nor in tests of surgical procedure need animals be kept completely anaesthetized during the process of recovery from the surgical operation." As it would be impossible to keep an animal anaesthetized during the whole time of an inoculation experiment, the duration of which may vary from one to thirty days, or even longer, the effect of this exception is to avoid a complete prohibition of this class of experiments, and to allow them to be made subject to all the other provisions of the bill.

The first restriction is that "the experiment must be performed with a view to the advancement by new discovery of physiological knowledge, or of knowledge which will be useful for saving or prolonging life or alleviating suffering." Dr. Chas. W. Dabney, jr., Acting Secretary of Agriculture, held, in a letter to the chairman of the committee, that this provision forbids all experimentation to confirm the results obtained by others, or to determine whether their results are exactly accurate, or whether such conclusions apply under the conditions which obtain in this country. If this view should prove to be correct, and it appears to be in strict accordance with the text of the bill, it would prohibit a large part of the experimental work of the Department, bacteriology included, and seriously cripple the remainder. The report (No. 116) states that "the bill does not bear this limited construction," but it is difficult to see how a court could otherwise construe this plain and explicit language.

Those who drafted the British law were evidently of the opinion that the courts would strictly construe this paragraph for they inserted the following exception:

Experiments may be performed not directly for the advancement by new discovery of physiological knowledge, or of knowledge which will be useful for saving or prolonging life or alleviating suffering, but for the purpose of testing a particular former discovery alleged to have been made for the advancement of such knowledge as last aforesaid, on such certificate being given, as is in this act mentioned, that such testing is absolutely necessary for the effectual advancement of such knowledge.

For some unexplained reason the anti-vivisection committee of the Washington Humane Society omitted this paragraph when they drafted S. 1063, and consequently this safeguard does not appear in the bill now pending in the United States Senate.

It is not my purpose to analyze the entire bill, nor is this necessary to show that it is fatally defective in its present form. Let us return to paragraph (c), section 2. "The animal must, during the whole of the experiment, be completely under the influence of ether or chloroform sufficiently to prevent the animal from feeling pain, excepting only that in so-called inoculation experiments or tests of drugs or medicines, the animal need not be anaesthetized nor killed afterwards, nor in tests of surgical procedure need animals be kept completely anaesthetized during the process of recovery from the surgical operation. Otherwise than this the animal must be kept from pain during all experiments." There is a very simple, very common, and very necessary line of experiments made to determine whether an animal contracts or may contract a certain disease through certain articles of diet. For instance, we wish to determine whether a calf or a pig will contract tuberculosis by eating infected milk which has passed through a separator, or whether hog cholera may be spread by the separator milk from creameries. The only way to determine this is to feed infected milk which has been passed through a separator. But if the animal contracts one of these diseases in that way it will probably become fatally affected; it will probably suffer pain. As this is not an inoculation experiment, it contravenes the provisions of the bill unless the animals are kept under anaesthetics during the whole course of the experiment, which would be absurd and impossible.

Again, we wish to determine whether susceptible cattle will contract Texas fever when separated from infected ones by an ordinary board fence. It has been held by some that this is impossible, but others hold the opposite view. It is important to test the question by actual experiment. Here, again, we would contravene the provisions of the bill, because, if the animals contracted the disease, they would suffer pain, and, as it is not a "so-called inoculation experi-

ment," it would be necessary according to the bill to keep the animals completely anesthetized during the whole course of the experiment. Such a proceeding would be as impossible in this case as in the other.

Take another case, such as it is frequently necessary for the Department to decide by accurate experiments. We wish to know whether the contagion of a disease like bovine pleuro pneumonia may be contracted from stables, or whether it must always pass direct from animal to animal through the expired air. To determine this, animals must be confined in stables where diseased cattle have been. If they contract the disease they necessarily suffer pain, hence, as it is not an inoculation experiment, or a test of drugs or medicines or a surgical procedure, the animal must be kept for weeks under ether or chloroform, which again would be absurd and impossible.

A fourth case may arise as follows: There is a serious outbreak of an apparently contagious disease among horses in a Western State. The State veterinarian being in doubt as to its nature sends some blood or a piece of affected tissue to the Department, and asks for an investigation and an early report to guide him in the measures that should be adopted for the suppression of the outbreak. An inoculation experiment is found to be necessary, and a horse must be used. Before this inoculation can be made a certificate must be given that the object of the experiment will necessarily be frustrated unless it is performed on a horse, ass, or mule, and that no other animal is available for this purpose. The application for this certificate must be signed by three physicians duly licensed to practice and actually engaged in practicing medicine in the District of Columbia, and also by a professor of physiology, medicine, anatomy, medical jurisprudence, *materia medica* or surgery in the medical department of a duly established reliable school or college in the District of Columbia. After this application is forwarded to the Commissioners of the District it does not become available until a period of one week has elapsed. During this time the material sent for examination has putrefied and the investigation can not be made. And yet we are told by the Senator that "the bill under consideration does not interfere in the least with inoculation experiments."

These are simple, every-day cases of experiments which would be prohibited by this bill. Many others could be instanced, but it is not necessary. I have said enough to show that the bill will restrict, and in many cases it will actually prohibit, very important investigations.

III. This legislation is unanimously opposed by the great scientific bodies of the United States.

The bill under consideration is felt by scientific men to be such a blow at freedom of research, such an obstruction to the advancement of biology, medicine, and the allied sciences, that all of the great scientific bodies of the country have protested against it. Among these may be mentioned, as having most weight, the National Academy of Sciences, The American Association for the Advancement of Science, The Society for the Promotion of Agricultural Science, The American Medical Association, The Association of American Physicians, The American Academy of Medicine, The American Surgical Association, The Association of American Medical Colleges, The American Microscopical Society, The United States Veterinary Medical Association, The American Public Health Association, The American Society of Naturalists, The American Society of Morphologists. In addition to these, numerous State medical associations, State boards of health, State academies of natural sciences, and the faculties of educational institutions have joined in this protest. The united voice of these great and conservative organizations can not be safely ignored or disregarded.

The report accompanying the bill assumes that these protests were made without an examination of the bill, and without an understanding of its effects upon research. This assumption is based upon the statement in the protests that the bill would restrict, prevent and prohibit experimentation upon animals in the District of Columbia, whereas, according to Senator Gallinger, it would not have that effect. The organizations mentioned, which include most if not all of the investigators of the country, may be considered as having acted intelligently and to be better judges of such legislation than persons who have had no experience in scientific research. Besides, it has already been shown in this communication that the provisions of the bill do restrict this class of experiments, and absolutely prevent and prohibit many lines of work. The assumption that these learned bodies protested without an investigation and without a knowledge of the bill can not be accepted.

IV. This bill would discourage and injure the investigations of this Department by placing the experts under the espionage of inspectors not connected with the Department, by requiring reports to be made in detail to the Commissioners of the District of Columbia, by imposing heavy penalties for any experiment which varies in any way from the lines laid down in the bill.

Espionage by inspectors unacquainted with the purposes or necessities of original scientific work in any field can not be agreeable to the expert; and if the inspectors should be unfriendly, officious, and inclined to search for slight departures from the terms of the bill or to misconstrue the experiments, it would become simply intolerable. It may be assumed that the President would make a wise selection of inspectors; but no doubt the originators of the bill, the antivivisection committee of the local humane society, would expect to be represented, and might secure representation. In that case would not their antivivisection principles compel them to obstruct, harass, and prevent experimentations upon animals to the full extent of their power? Could we reasonably expect any other course?

By frequent visits of the inspectors, or any of them, by prolonged investigations of the laboratories, and continuously asking for explanations, by repeatedly calling through the Commissioners for detailed reports of all experiments, the experimental work of the Department might be interrupted and prevented at any time, notwithstanding the instructions of the Secretary of Agriculture and his desire to speedily accomplish some particular plan for the benefit of the agricultural interests. An experiment necessary to decide some important question connected with our export cattle trade and to save that trade from destruction by foreign prohibition might thus be stopped, or an experiment to at once determine the nature of an imported contagion such as rinderpest, threatening with disaster the whole animal industry of the country, might be delayed until the contagion had extended beyond control.

Again, it is undesirable to divide the authority over the employees of this Department between the Secretary of Agriculture and the Commissioners of the District of Columbia. Should this bill become a law, the Secretary of Agriculture might order an immediate investigation of some important subject, but the Commissioners of the District of Columbia could arrest and delay this investigation by calling for detailed reports upon work in progress or which had previously been performed. They might at any time prevent or stop certain classes of investigations by disallowing or suspending the required certificate as provided in section 7. Such a condition of affairs would be unprecedented, and destructive to discipline and effective work.

We could only expect that the experts employed by this Department would endeavor to obey the law and conduct the experiments in accordance with its

provisions in order to avoid the penalties. If there was any doubt as to the legality, the experiments would not be made. Many tests which would otherwise be made would be avoided and the results of the investigations would to that extent be inconclusive and unreliable. Who would suffer from these deficiencies? Not the expert, for his salary would continue unimpaired. Would not all the delays, all the deficiencies, all the prohibition of work be so much withdrawn from the people of the United States and particularly from the farming community? If experiments upon animals are conducted by this Department, it is because the country needs the knowledge obtained in that way, and because Congress has directed that such investigations should be made.

V. It has not been shown that existing law is insufficient to prevent any form of cruelty.

The report accompanying the bill refers to a proposed visit to this country of Professor Mantagazza and says:

Suppose him to visit Washington, and to offer to repeat, for instruction of young "experts" in Government laboratories, that series of experiments in causation of pain which made him famous—or infamous—wherever his name is known. Should he be permitted to do so? * * * But those who advocate this bill do not, and will not, admit that even the eminence or the qualifications of Mantagazza justify him in experiments such as he has made. Even a man of science must not overstep the boundaries that separate right from wrong. It is not to be believed that the possession of a degree in science should confer upon any young enthusiast the right to torture animals after the example of Mantagazza or others like him, and especially should they not be permitted to do this in laboratories supported by taxation of the people of the United States, free from inspection or criticism, free from accountability to public opinion, free from the control or supervision of representatives of the National Government other than those who are officers of the particular department under which the experimenter is employed.

A cursory examination of existing law shows that such experiments as are related in detail in the report are already prohibited, and violations of the law may be followed with as severe penalties as are provided in S. 1063. Only *properly conducted* scientific experiments under *proper authority* are now allowed. Provision is also made for the issuance of a search warrant upon complaint by any member of the Association for the Prevention of Cruelty to Animals who believes and has reasonable cause to believe that the laws in relation to cruelty to animals have been or are being violated in any particular building or place. I quote certain sections of the Compiled Statutes, D. C. (chapter 67), in relation to the Washington Humane Society to show the complete authority which has already been enacted for preventing cruelty in any form:

SEC. 5. Whoever overdrives, overloads, drives when overloaded, overworks, tortures, torments, deprives of necessary sustenance, cruelly beats, mutilates, or cruelly kills, or causes or procures to be so overdriven, overloaded, driven when overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, mutilated, or cruelly kills any animal, and whoever, having the charge or custody of any animal, either as owner or otherwise, inflicts unnecessary cruelty upon the same, or unnecessarily fails to provide the same with proper food, drink, shelter, or protection from the weather, shall for every such offense be punished by imprisonment in jail not exceeding one year, or by fine not exceeding two hundred and fifty dollars, or by both such fine and imprisonment.

SEC. 6. Every owner, possessor, or person having the charge or custody of any animal, who cruelly drives or works the same when unfit for labor, or cruelly abandons the same, or who carries the same, or causes the same to be carried, in or upon any vehicle or otherwise, in an unnecessarily cruel or inhuman manner, or knowingly and wilfully authorizes or permits the same to be subjected to unnecessary torture, suffering, or cruelty of any kind, shall be punished for every such offense in the manner provided in section one. [Sec. 5 of this act.]

SEC. 9. When complaint is made by any member of the Association for the Prevention of Cruelty to Animals (Washington Humane Society), on oath or affirmation, to any magistrate authorized to issue warrants in criminal cases, that the complainant believes, and has reasonable cause to believe, that the laws in relation to cruelty to animals have been or are being violated in any particular building or place, such magistrate, if satisfied that there is reasonable cause for such belief, shall issue a search warrant, authorizing any marshal, deputy marshal, constable, police officer, or any member of the Association for the Prevention of Cruelty to Animals, to search such building or place.

SEC. 15. Nothing in this act contained shall be construed to prohibit or interfere with any properly conducted scientific experiments or investigations, which experiments shall be performed only under the authority of the faculty of some regularly incorporated medical college, university, or scientific society.

SEC. 16. In this act the word "animal" or "animals" shall be held to include all brute creatures, and the words "owner," "persons," and "whoever," shall be held to include corporations as well as individuals; and the knowledge and acts of agents of, and persons employed by, corporations in regard to animals transported, owned, or employed by, or in the custody of, such corporations shall be held to be the acts and knowledge of such corporations.

The report assumes, page 6, that the great underlying principle for which the bill contends is the right of the Government to govern the individual. So far as I can see there is no such principle at stake. The right of Congress to pass the bill is unquestioned, but whether it is desirable, proper, and for the best interests of the country to pass it is a question which should receive careful and impartial investigation. I trust that legislation which so seriously affects the whole country will not be treated as a strictly local measure, but will receive the attention of your honorable committee; that the voice of agriculture and science may be heard by the Senate, and that this objectionable bill will not become a law.

Very respectfully,

JAMES WILSON,
Secretary.

NOTE.—Copy of Senate Bill No. 1063 is enclosed herewith.